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PATENT
ATTORNEY DOCKET: 46884-5382

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
Akimitsu KAKUI et al.) Confirmation No.: 4856
)
Application No.: 10/533,116) Group Art Unit: 1641
)
Filed: January 23, 2006) Examiner: Lisa V. Cook
)
For: DISEASE DETERMINATION)
METHOD, DATA GENERATION)
METHOD FOR DISEASE)
DETERMINATION AND DATA)
GENERATION SYSTEM FOR)
DISEASE DETERMINATION)

Commissioner for Patents
U.S. Patent and Trademark Office
Customer Window, Mail Stop Amendment
Alexandria, VA 22314

Sir:

RESPONSE TO RESTRICTION/ELECTION
REQUIREMENT TRANSMITTAL FORM

1. Transmitted herewith is Response to Restriction/Election Requirement in response to the Office Action dated March 25, 2008.

2. Additional papers enclosed:

- ☐ Drawings: _____ sheets with _____ figures
- ☐ Information Disclosure Statement
- ☐ Form PTO-1449
- ☐ Citations
- ☐ Declaration of Biological Deposit
- ☐ Submission of "Sequence Listing", computer readable copy and/or amendment pertaining thereto for biotechnology invention containing nucleotide and/or amino acid sequence.

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3. Extension of Time

The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136(a) apply.

- ☐ Applicants believe that no extension of time is required. However, this conditional petition is being made to provide for the possibility that Applicants have inadvertently overlooked the need for a petition and fee for extension of time.
- ☒ Applicants petition for an extension of time, the fees for which are set out in 37 C.F.R. § 1.17(a), for the total number of months checked below:

| <u>Total Months Requested</u> | <u>Fee for Extension</u> | <u>[Fee for Small Entity]</u> |
|--|--------------------------|-------------------------------|
| <input type="checkbox"/> one month | \$ 120.00 | \$ 60.00 |
| <input type="checkbox"/> two months | \$ 450.00 | \$ 225.00 |
| <input checked="" type="checkbox"/> three months | \$ 1,050.00 | \$ 510.00 |
| <input type="checkbox"/> four months | \$ 1,590.00 | \$ 795.00 |

Extension of time fee due with this request: \$ 1,050.00

If an additional extension of time is required, please consider this a Petition therefor.

4. Constructive Petition

- ☒ **EXCEPT** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0573. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

5. Fee Calculation (37 C.F.R. § 1.16)

| CLAIMS AS AMENDED | | | | | | |
|---|--------------------------------|-------|--------------------------------|------------------|----------------|------------|
| | Claims Currently Pending | | Highest No. Previously Paid | Present Extra | at Rate of | Total Fees |
| Total Claims (37 C.F.R. §1.16(c)) | 32 | minus | 32 | 0 | x \$50 each = | + \$0.00 |
| Independent Claims (37 C.F.R. §1.16(b)) | 3 | minus | 3 | 0 | x \$200 each = | + \$0.00 |
| [] First presentation of Multiple dependent claim(s) | | | | | \$360.00 | + \$0.00 |
| SUB-TOTAL = | | | | | | \$0.00 |
| Reduction by ½ for filing by a small entity | | | | | | - \$0.00 |
| TOTAL FEE = | | | | | | \$0.00 |

6. Fee Payment

- ☐ No fee is to be paid at this time.
- ☒ Enclosed is a check in the amount of \$1,050.00 for the 3-month extension of time fee.
- ☐ The Commissioner is hereby authorized to charge _____ to Deposit Account No. 50-0573 for the _____ fee.
- ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, including fees due under 37 C.F.R. §§ 1.16 and 1.17, or credit any overpayment to Deposit Account 50-0573.

Respectfully submitted,

DRINKER, BIDDLE & REATH LLP

Dated: July 18, 2008

By: 

Paul A. Fournier

Registration No. 41,023

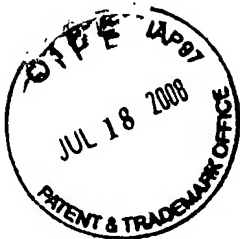
Customer No. 055694**DRINKER, BIDDLE & REATH LLP**

1500 K Street, N.W. Suite 1100

Washington, D.C. 20005-1209

Tel: (202) 842-8800

Fax: (202) 842-8465



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U.S. Patent and Trademark Office
Customer Window, Mail Stop Amendment
Alexandria, VA 22314

Sir:

RESPONSE TO RESTRICTION/ELECTION REQUIREMENT

In an Office Action dated March 25, 2008, the period for response to which extends through July 25, 2008 by the concurrently-filed petition for a three-month extension of time and corresponding fee payment, the Examiner required restriction/election under 35 U.S.C. §§ 121 and 372 between Group I (claims 1-13) allegedly drawn to “a method of measuring disease states in a biological sample from a person,” Group II (claims 14-26) allegedly drawn to “a method of generating data,” and Group III (claims 27-32) allegedly drawn to “a data generation system.”

Applicants hereby elect Group II (claims 14-26) for examination.

Applicants respectfully request formal examination of this application.

Applicants respectfully assert that no additional fee is due in connection with the filing of this response. However, if there are any additional fees due in connection with the filing of this response, please charge those fees to Deposit Account No. 50-0573.

Respectfully submitted,

DRINKER, BIDDLE & REATH LLP

Dated: July 18, 2008

By:



Paul A. Fournier

Reg. No. 41,023

Customer No. 055694

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Fax: (202) 842-8465